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## TRANSMITTAL FORM

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		Application Number	09/863,528
		Filing Date	May 22, 2001
		First Named Inventor	Daniel W. Nebert
		Art Unit	1632
		Examiner Name	Valarie Bertoglio
Total Number of Pages in This Submission		Attorney Docket Number	91830.0476945

### ENCLOSURES (Check all that apply)

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### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Frost Brown Todd LLC		
Signature			
Printed name	Stephen R. Albainy-Jenei		
Date	December 16, 2005	Reg. No.	41,487

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**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: Nebert : Paper No:  
Serial No. 09/863,528 : Group Art Unit: 1632  
Filed: May 22, 2001 : Examiner: Valarie E. Bertoglio  
For: **TRANSGENIC ANIMALS FOR MONITORING WATER QUALITY**

**SUMMARY OF RECORD OF INTERVIEW**

**Confirmation No. 1421**

Mail Stop AF  
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P.O. Box 1450  
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Dear Sir:

Applicants previously have filed a Response to the earlier Office Action, dated May 26, 2005. In response to the Interview Summary, dated November 17, 2005, please consider the following remarks:

**REMARKS**

Applicant's attorney thanks Examiner Bertoglio for the telephonic interview which took place on November 3, 2005. Discussion of the claimed invention and the cited art helped crystallize the distinctions over the art and, we believe, define patentable subject matter. The submitted amendments summarize the comments made by Applicant's attorney in that interview.

During the telephone conversation, the term "transgenic" was discussed as encompassing chimeric animals and the claims are enabled with respect to chimeras.

Also discussed during the interview was the term “known standard” that the Examiner discussed as not being defined by the specification. Claims 1 and 2 have been amended to more clearly state the method that must be used to practice the invention. The Examiner has expressed concern that the claims may be deficient because they do not require a determination of background expression for each organism prior to use. While Applicant respectfully maintains that correlating expression to a “known standard” is intuitive in the art, the current amendments make clear that a standard water sample containing a *known level of contaminant* must be used as a *reference* to standardize the transgenic organism.

It was agreed that claim 18 was confusing as it included both gene names and response elements and because it contains abbreviated gene names. Applicant has canceled claim 18.

Therefore, in view of the breadth of the claims as amended and the guidance provided by the specification, one of ordinary skill in the art at the time of the invention would not have required an undue amount of experimentation to make and use the claimed invention. In light of this, it is submitted that the claims of the present application, as amended herein, are patentable.

### Conclusion

It is respectfully submitted that the claims currently pending in the present application are in form for allowance. Accordingly, reconsideration of those claims, as amended, is earnestly solicited. Applicants encourage the Examiner to contact their representative, Stephen R. Albainy-Jenei at (513) 651-6839 or [salbainyjenei@fbtlaw.com](mailto:salbainyjenei@fbtlaw.com).

The Commissioner for Patents is hereby authorized to charge any deficiency or credit any overpayment of fees to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully submitted,

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By

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Linda E. Spore  
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